United Nations A/53/PV.52

General Assembly
Fifty-third Session

Official Records

52nd plenary meeting
Tuesday, 3 November 1998, 10 a.m.
New York

President: Mr. Opertti ..... (Uruguay)

The meeting was called to order at 10.05 a.m.

Agenda item 47

Election of the judges of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Letter from the President of the Security Council (A/53/442)

Memorandum by the Secretary-General, including the list of candidates (A/53/443)

Curricula vitae (A/53/444 and Corr.1 and Add.1)

The President (*interpretation from Spanish*): In connection with the election, I should like to bring the following matters to the attention of the General Assembly.

As members may recall, by its resolution 955 (1994) of 8 November 1994, the Security Council adopted the Statute of the International Tribunal for Rwanda.

Elections for the judges of the two Trial Chambers of the International Tribunal for Rwanda took place in 1995. The terms of office of the six judges who were elected in those elections are due to expire on 24 May 1999.

By its resolution 1165 (1998) of 30 April 1998, the Security Council decided to establish a third Trial Chamber of the International Tribunal for Rwanda. It further decided that the elections for the three judges of the third Trial Chamber should be held together with the elections for the six judges of the two existing Trial Chambers.

Pursuant to article 12, paragraph 5, of the Statute, the judges of the International Tribunal for Rwanda shall be elected for a term of four years and pursuant to paragraph 2 of Security Council resolution 1165 (1998), the terms of office of the judges to be elected in the current elections will expire on 24 May 2003. The judges of the International Tribunal for Rwanda are to serve on a full-time basis and cannot engage in any other occupation of a professional nature during their tenure.

Six out of the nine judges who are to be elected will take up office on 25 May 1999, following the expiration of the terms of office of the judges who currently make up the two existing Trial Chambers of the International Tribunal. By paragraph 3 of its resolution 1165 (1998), the Security Council decided that, as an exceptional measure, three out of the nine newly elected judges, who would be designated by the Secretary-General in consultation with the President of the International Tribunal, were to commence their terms of office as soon as possible following the elections in order that the new third Trial Chamber created by that resolution might begin to function at the earliest possible date.

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According to article 12, paragraph 3, of the Statute of the International Tribunal for Rwanda, the judges of the Trial Chambers of the International Tribunal for Rwanda shall be elected by the General Assembly from a list of candidates submitted by the Security Council.

At its 3934th meeting, on 30 September 1998, the Security Council, in accordance with article 12, subparagraph 3 (c), of the Statute of the International Tribunal, established in resolution 1200 (1998) a list of 18 candidates, taking due account of the adequate representation of the principal legal systems of the world. The list was formally conveyed to the President of the General Assembly by letter dated 30 September 1998 from the President of the Security Council. That letter was issued as document A/53/442.

In accordance with article 12, subparagraph 3 (d), of the Statute of the International Tribunal for Rwanda, the Holy See and Switzerland, two non-member States, shall participate in the election in the same manner as the States Members of the United Nations. On this occasion, I am happy to welcome here the representatives of the Holy See and Switzerland.

Finally, I should like to draw the attention of the Assembly to the documents relating to the election. The memorandum by the Secretary-General concerning the election of judges of the International Tribunal for Rwanda is contained in document A/53/443. The list of candidates is to be found in paragraph 11 of that document.

The curricula vitae of the candidates are to be found in document A/53/444 and corrigendum 1 and addendum 1. In that connection, may I bring to the Assembly's attention the provision of article 12, paragraph 1, of the Statute of the International Tribunal for Rwanda, which stipulates that judges of the Tribunal shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. According to the same provision, due account shall be taken in the overall composition of the Chambers of the Tribunal of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law.

As representatives know, the election of judges will take place in accordance with the relevant provisions of article 12 of the Statute of the International Tribunal for Rwanda.

In addition, given the similar nature of the election of judges of the International Court of Justice and the election of judges of the International Tribunal for Rwanda, the Secretary-General suggests in his memorandum that similar election procedures be followed in the General Assembly.

May I take it that the Assembly agrees to that suggestion?

It was so decided.

The President (*interpretation from Spanish*): In accordance with article 12, subparagraph 3 (d), of the Statute of the International Tribunal for Rwanda, the candidates who receive an absolute majority of the votes of States Members of the UnitedNations and of the non-member States maintaining permanent observer missions at United Nations Headquarters will be declared elected.

The consistent practice of the United Nations has been to interpret the words "absolute majority" as meaning a majority of all electors, whether or not they vote or are allowed to vote. The electors, for this purpose, are all 185 Member States and the two non-member States, namely, the Holy See and Switzerland. Accordingly, 94 votes constitute an absolute majority for the purpose of electing judges of the International Tribunal for Rwanda.

If, in the first ballot, the number of candidates obtaining an absolute majority is less than nine, a second ballot will be held, and balloting will continue in the same meeting, if and as necessary, until nine candidates have obtained an absolute majority. In any second or subsequent ballot, each elector may vote for no more than nine candidates less the number of candidates who have already obtained absolute majorities.

It is further suggested that if in the first ballot more than nine candidates obtain an absolute majority of votes, a second ballot will be held on all candidates and balloting will continue at the same meeting, if and as necessary, until nine candidates, and no more, obtain an absolute majority.

Following the practice in the election of judges of the International Court of Justice, the Secretary-General suggests in his memorandum that subsequent balloting should be unrestricted; I repeat, that subsequent balloting should be unrestricted. Votes may accordingly be cast in

any second or subsequent ballot for any eligible candidate who has not yet obtained an absolute majority.

May I take it that the Assembly agrees to the procedures I have just outlined?

It was so decided.

Mr. Tello (Mexico) (*interpretation from Spanish*): Once again the Mexican delegation will not be participating in the election of the judges of the International Criminal Tribunal for Rwanda. Mexico considers that in establishing that Tribunal the Security Council exceeded its sphere of competence, since in the Charter of the United Nations there is no explicit provision authorizing it to establish jurisdictional mechanisms of this nature.

Mexico is convinced that once the International Criminal Court becomes operational — a Court whose establishment process is indeed in accordance with international law — the creation of new special tribunals will be unnecessary.

Notwithstanding these comments, Mexico will continue to make timely contributions to the financing of the Tribunal in strict compliance with the relevant decisions of the General Assembly.

The President (*interpretation from Spanish*): I call on the Observer of the Holy See.

Archbishop Martino (Holy See): In 1994 the world was shocked by the genocide that killed almost half a million people in Rwanda. The Holy See, and especially Pope John Paul II, deplored the blind violence and appealed for an end to massacres and other atrocities perpetrated even inside churches, where innocent and disarmed people sought refuge.

Justice delayed is not merely justice denied. Any delay leading to a culture of impunity might seriously and adversely affect the healing process and could become a source of further vengeance and violence. The role of the International Tribunal in a country such as Rwanda, which is torn apart by genocide and ethnic conflicts but still aspires to lasting peace and prosperity, is important and irreplaceable.

In recent months, the International Tribunal for Rwanda has made considerable progress in bringing some of the perpetrators of genocide to justice. Still, the Tribunal requires more efficiency and more speed for its remaining work.

The Holy See welcomes the provisions of the Statute of the Tribunal, as amended on 30 April 1998, in article 12, subparagraphs 3 (a) and 3 (d), which acknowledge the Holy See's active participation in the establishment of the Tribunal and in the election of its judges, as a non-Member State maintaining a Permanent Observer Mission at the United Nations.

However, in consideration of its specific nature and objectives as a sovereign international entity, and in accordance with the recognized practice in similar cases, the Holy See has decided to abstain from casting its vote on individual candidates for the office of judge of the International Tribunal. Still, the Holy See wishes to emphasize the norms set in the Statute of the Tribunal concerning the qualification of judges, namely, that they shall be persons of high moral character, impartiality and integrity.

The Holy See expresses its confidence in the choices that will be made by the international community and offers its sincere best wishes for success to the elected judges in their service to the cause of justice. It is the hope of the Holy See that, through more efficient and expeditious action of the Tribunal, the healing process in Rwanda will continue and reconciliation and peace will be achieved.

The President (*interpretation from Spanish*): We shall now proceed with the election.

The voting process has now begun.

Representatives are requested to use only the ballot papers now being distributed. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the nine candidates for whom they wish to vote by placing crosses to the left of their names on the ballot papers. Ballot papers on which more than nine names are marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Ms. Samah (Algeria), Mr. Giroux (Canada), Mrs. Reza (Indonesia), Ms. Cardoze (Panama) and Mr. Herasymenko (Ukraine) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 10.35 a.m. and resumed at 12.10 p.m.

The President (*interpretation from Spanish*): The result of the voting is as follows:

Number of ballot papers:	173
Number of invalid ballots:	0
Number of valid ballots:	173
Abstentions:	1
Number of members voting:	172
Required majority:	94
Number of votes obtained:	
Ms. Navanethem Pillay (South Africa)	129
Mr. Laïty Kama (Senegal)	125
Mr. Dionysios Kondylis (Greece)	112
Mr. Mehmet Güney (Turkey)	109
Mr. Pavel Dolenc (Slovenia)	102
Mr. William Sekule (United Republic of Tanzania)	100
Mr. Yakov Ostrovsky (Russian Federation)	98
Mr. Erik Møse (Norway)	97
Mr. Lloyd George Williams (Jamaica and Saint Kitts and Nevis)	79
Mr. Asoka de Zoysa Gunawardena (Sri Lanka)	77
Mr. Aka Edoukou Jean-Baptiste Kablan (Côte d'Ivoire)	75
Ms. Eugénie Liliane Arivony (Madagascar)	69
Mr. Willy C. Gaa (Philippines)	66
Mr. Salifou Fomba (Mali)	61
Ms. Indira Rana (Nepal)	53
Mr. Cheick Dimkinsedo Ouédraogo (Burkina Faso)	50
Mr. Bouba Mahamane (Niger)	40
Mr. Tilahun Teshome (Ethiopia)	34

Having obtained an absolute majority, the following candidates were elected members of the International Criminal Tribunal for Rwanda: Mr. Pavel Dolenc, Mr. Mehmet Güney, Mr. Laïty Kama, Mr. Dionysios Kondylis, Mr. Erik Møse, Mr. Yakov Ostrovsky, Ms. Navanethem Pillay and Mr. William Sekule.

The President (*interpretation from Spanish*): There remains one seat to be filled. The Assembly will now proceed to another ballot to fill the remaining vacancy. In accordance with the decision taken earlier, that ballot shall be unrestricted.

Ballot papers will now be distributed. All the candidates whose names appear on the ballot paper are eligible. I remind delegations that the name of only one candidate should be marked with a cross. Any ballot on which more than one name is marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot paper.

At the invitation of the President, Ms. Samah (Algeria), Mr. Giroux (Canada), Mrs. Reza (Indonesia), Ms. Cardoze (Panama) and Mr. Herasymenko (Ukraine) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 12.25 p.m. and resumed at 1.20 p.m.

The President (*interpretation from Spanish*): The result of the voting is as follows:

Number of ballot papers:	174
Number of invalid ballots:	3
Number of valid ballots:	171
Abstentions:	1
Number of members voting:	170
Required majority:	94
Number of votes obtained:	
Mr. Lloyd George Williams (Jamaica and Saint Kitts and Nevis)	52
Mr. Asoka de Zoysa Gunawardena (Sri Lanka)	38
Mr. Aka Edoukou Jean-Baptiste Kablan (Côte d'Ivoire)	23
Mr. Willy C. Gaa (Philippines)	21
Ms. Eugénie Liliane Arivony (Madagascar)	15
Mr. Salifou Fomba (Mali)	8
Mr. Cheick Dimkinsedo Ouédraogo (Burkina Faso)	6
Mr. Bouba Mahamane (Niger)	4
Ms. Indira Rana (Nepal)	2
Mr. Tilahun Teshome (Ethiopia)	1

The President (*interpretation from Spanish*): Since no candidate has obtained an absolute majority, the Assembly will have to proceed to another unrestricted ballot to fill the remaining vacancy.

Mr. Traoré (Burkina Faso) (*interpretation from French*): In order to facilitate the next round of voting, the delegation of Burkina Faso has decided to withdraw the candidacy of Mr. Cheick Dimkinsedo Ouédraogo.

Mr. Joseph (Niger) (*interpretation from French*): In view of the results of the latest round of voting, and in order to facilitate the next, the delegation of the Niger

also wishes to withdraw its candidate, Mr. Bouba Mahamane.

Mr. Ouane (Mali) (*interpretation from French*): The delegation of Mali announces the withdrawal of its candidate, in view of the outcome of the balloting.

Mr. Shah (Nepal): In order to facilitate the next round of voting, I wish to inform the Assembly that it is the wish of my candidate to have her name withdrawn from the next ballot paper.

Mr. Taye (Ethiopia): In the same spirit as other delegations have done, Ethiopia, too, wishes to withdraw its candidate.

The President (*interpretation from Spanish*): Members have heard the statements just made by the representatives of Burkina Faso, the Niger, Mali, Nepal and Ethiopia. I take it that the representatives of Burkina Faso, the Niger, Mali, Nepal and Ethiopia are informing the General Assembly that their respective candidates have decided to withdraw their names from the list of candidates. The names of Mr. Cheick Dimkinsedo Ouédraogo, Mr. Bouba Mahamane, Mr. Salifou Fomba, Ms. Indira Rana and Mr. Tilahun Teshome will be deleted from the next ballot paper.

In view of the lateness of the hour, we will continue with the balloting this afternoon.

In the absence of the President, Mr. Mungra (Suriname), Vice-President, took the Chair.

The meeting was suspended at 1.25 p.m. and resumed at 3.10 p.m.

The Acting President: As announced this morning, the General Assembly will now proceed to another unrestricted ballot to fill the remaining vacancy.

I should like to remind members that the representatives of Burkina Faso, Ethiopia, Mali, Nepal and the Niger announced earlier that the candidates from their respective countries, namely, Mr. Salifou Fomba (Mali), Mr. Bouba Mahamane (Niger), Mr. Cheick Dimkinsedo Ouédraogo (Burkina Faso), Ms. Indira Rana (Nepal) and Mr. Tilahun Teshome (Ethiopia) had decided to withdraw their names from the list of candidates.

Accordingly, the ballot papers that are going to be distributed do not contain those names.

We shall now proceed with the election.

The voting process has now begun.

Representatives are requested to use only the ballot papers now being distributed. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the one candidate for whom they wish to vote by placing a cross to the left of one name on the ballot papers. Ballot papers on which more than one name is marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot papers.

At the invitation of the President, Ms. Samah (Algeria), Mr. Giroux (Canada), Mrs. Reza (Indonesia), Ms. Cardoze (Panama) and Mr. Herasymenko (Ukraine) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 3.25 p.m. and resumed at 3.45 p.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	164
Number of invalid ballots:	0
Number of valid ballots:	164
Abstentions:	1
Number of members voting:	163
Required majority:	94
Number of votes obtained:	
Mr. Lloyd George Williams (Jamaica and Saint Kitts and Nevis)	64
Mr. Asoka de Zoysa Gunawardena (Sri Lanka)	35
Mr. Aka Edoukou Jean-Baptiste Kablan (Côte d'Ivoire)	34
Mr. Willy C. Gaa (Philippines)	17
Ms. Eugénie Liliane Arivony (Madagascar)	13

The Acting President: Since no candidate has obtained an absolute majority, the Assembly will have to proceed to another unrestricted ballot to fill the remaining vacancy.

Mr. Bakoniarivo (Madagascar) (*interpretation from French*): In view of the results of the third round of voting, the delegation of Madagascar has decided to withdraw the candidacy of its national.

The Acting President: Members have heard the statement just made by the representative of Madagascar. I take it that the representative of Madagascar is informing the General Assembly that the candidate from his country has decided to withdraw her name from the list of candidates. The name of Ms. Eugénie Liliane Arivony will be deleted from the next ballot paper.

We will suspend the meeting for a few minutes.

The meeting was suspended at 3.50 p.m. and resumed at 4 p.m.

The Acting President: The Assembly will now proceed to a fourth ballot to fill the remaining vacancy. In accordance with the decision taken earlier, that ballot shall be unrestricted.

Ballot papers will now be distributed. All the candidates whose names appear on the ballot paper are eligible. Once again, I remind delegations that the names of only one candidate should be marked with a cross. Any ballot on which more than one name is marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot paper.

At the invitation of the President, Ms. Samah (Algeria), Mr. Giroux (Canada), Mrs. Reza (Indonesia), Ms. Cardoze (Panama) and Mr. Herasymenko (Ukraine) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 4.15 p.m. and resumed at 4.30 p.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	166
Number of invalid ballots:	0
Number of valid ballots:	166
Abstentions:	1
Number of members voting:	165
Required majority:	94
Number of votes obtained:	
Mr. Lloyd George Williams (Jamaica and Saint Kitts and Nevis)	87
Mr. Aka Edoukou Jean-Baptiste Kablan (Côte d'Ivoire)	37
Mr. Asoka de Zoysa Gunawardena (Sri Lanka)	31
Mr. Willy C. Gaa (Philippines)	10

The Acting President: Once again, no candidate has obtained an absolute majority and the Assembly will now have to proceed to another restricted ballot to fill the remaining vacancy.

Ms. Ramiro-Lopez (Philippines): My delegation would like to withdraw its candidate and would like to thank those delegations that have supported us.

Mr. Nakkawita (Sri Lanka): My delegation would like to withdraw the candidature of Mr. Asoka de Zoysa Gunawardena, the Sri Lanka nominee for election to the Rwanda Tribunal. In doing so, we are most grateful to all the countries that have voted for us in the various rounds. But for the sake of reaching an early decision, we would at this stage like to withdraw our candidate.

The Acting President: Members have heard the statements by the representatives of the Philippines and of Sri Lanka informing the General Assembly that Mr. Willy C. Gaa from the Philippines and Mr. Asoka de Zoysa Gunawardena from Sri Lanka have decided to withdraw their names from the list of candidates established by the Security Council. Accordingly, those names should be deleted from the ballot papers.

In view of the fact that new ballots have to be prepared to take into account the withdrawals just announced, I would suggest that the Assembly again suspend our meeting and resume in five minutes to proceed with the fifth round of balloting.

May I take it that the Assembly agrees to this proposal?

It was so decided.

The meeting was suspended at 4.35 p.m. and resumed at 4.50 p.m.

The Acting President: The Assembly will now proceed to a fifth round of balloting to fill the remaining vacancy.

The voting process has now begun.

Representatives are again requested to use only the ballot papers now being distributed. Only those candidates whose names appear on the ballot papers are eligible for election. May I remind delegations to indicate the one candidate for whom they wish to vote by placing a cross to the left of one name on the ballot paper. Any

ballot paper on which more than one name is marked will be considered invalid. Votes may be cast only for those whose names appear on the ballot paper.

At the invitation of the President, Ms. Samah (Algeria), Mr. Giroux (Canada), Mrs. Reza (Indonesia), Ms. Cardoze (Panama) and Mr. Herasymenko (Ukraine) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 5 p.m. and resumed at 5.20 p.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	167
Number of invalid ballots:	0
Number of valid ballots:	167
Abstentions:	2
Number of members voting:	165
Required majority:	94
Number of votes obtained:	
Mr. Lloyd George Williams (Jamaica and Saint Kitts and Nevis)	119
Mr. Aka Edoukou Jean-Baptiste Kablan (Côte d'Ivoire)	46

Having obtained an absolute majority, Mr. Lloyd George Williams was elected a member of the International Criminal Tribunal for Rwanda.

The Acting President: The nine judges elected today shall serve a term of office of four years, that is, until 24 May 2003.

Six out of the nine judges will take up office on 25 May 1999, following the expiration of the terms of office of the judges who currently make up the two existing Trial Chambers of the International Tribunal.

Three out of the nine judges, who will be designated by the Secretary-General in consultation with the President of the International Tribunal, are to commence their terms of office as soon as possible following the elections in order that the new, third Trial Chamber may begin to function at the earliest possible date.

The International Tribunal for Rwanda has thus been fully established.

I take this opportunity to extend to the judges the congratulations of the Assembly on their election and to thank the tellers for their kind assistance.

This concludes our consideration of agenda item 47.

The meeting rose at 5.25 p.m.